

REMARKS/ARGUMENTS

35 USC § 112

Claims 7, 9-10, and 12-14 were rejected under 35 USC § 112, first paragraph, as lacking enablement with respect to the manner of coupling of the fluid compartments in view of the continuous operation. The applicant agrees and amended claim 7 accordingly. Amended claim 7 now includes the limitation that "*...at least two of the plurality of compartments are in fluid communication with the fluid discharge port...*"

35 USC § 102(b)

Claims 15-20 were rejected under 35 USC § 102(e) as being anticipated by Southgate et al. (U.S. Pat. No. 5,863,502). The Applicant respectfully disagrees.

It is well established that anticipation under 35 U.S.C. § 102 requires the presence in a single prior art disclosure of *each and every element of a claimed invention*. *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2D (BNA) 1051, 1053 (Fed. Cir. 1987); *Carella v. Starlight Archery*, 804 F.2d 135, 138, 231 U.S.P.Q. (BNA) 644, 646 (Fed. Cir.), *modified on reh'd*, 1 U.S.P.Q.2D (BNA) 1209 (Fed. Cir. 1986); [**7] *Jamesbury Corp. v. Litton Indus. Prods., Inc.*, 756 F.2d 1556, 1560, 225 U.S.P.Q. (BNA) 253, 256 (Fed. Cir. 1985); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. (BNA) 481, 485 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. (BNA) 193, 198 (Fed. Cir. 1983).

- a.) Claim 15 expressly requires a "...method of *continuously separating whole blood...*" Such method is not taught or suggested by the reference
- b.) Claim 15 expressly also requires "*...container...is fabricated from a flexible top sheet and a flexible bottom sheet...*". Such limitation is neither taught nor suggested by the reference.
- b.) Claim 15 further expressly require that "*...at least two of the plurality of*

compartments are in fluid communication with the fluid discharge port..." Again, such elements are neither taught or suggested in the reference.

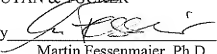
Based on at least these limitations and above arguments, the applicant believes that claims 15-20 were improperly rejected as being anticipated by the '502 patent and that the rejection should be withdrawn.

The applicant believes that the present claim amendments are sufficient to overcome the Examiner's concerns and believes that the claims as amended are now in condition for allowance. Therefore, the applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

~~RUTAN & TUCKER~~

By


Martin Fessenmaier, Ph.D.
Reg. No. 46,697
Tel.: (714) 641-5100